

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion to Comply with
the Mandates of Senate Bill 1563 Regarding
Deployment of Advanced Telecommunications
Technologies.

Rulemaking 03-04-003
(Filed April 3, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING SCHEDULING
PREHEARING CONFERENCE AND SUMMARIZING ISSUES**

The Commission opened this rulemaking on April 3, 2003, to satisfy Senate Bill 1563, which directs the Commission to submit to the State legislature a report addressing various issues relating to the deployment of advanced telecommunications technologies. Many parties subsequently filed comments and reply comments addressing related issues. This ruling summarizes the issues in the context of the Commission's SB 1712 report and related proceedings. This ruling also schedules a prehearing conference (PHC).

Summary of Issues

Rulemaking (R.) 03-04-003 identifies several issues SB 1563 requires the Commission to address in its report to the legislature. The Commission addressed some of those issues in a report the Commission submitted to the Legislature in September 2002 to satisfy the requirements of SB 1712. I propose that this proceeding focus primarily on (1) issues the Commission has not recently addressed and (2) updating the SB 1712 report to the extent there have been changes in

technologies, markets, law or government programs and policies.

Topics That May Require Updates

The following summarizes issues the Commission addressed in its SB 1712 Report or is considering in related Commission dockets. These issues should be included in the Commission's SB 1563 report to the extent there have been changes in technologies, markets, or government programs and regulations:

1. Whether the Commission can or should direct changes in technologies, their deployment or related infrastructure in ways that would promote more ubiquitous availability.

The Commission has only limited authority to regulate broadband technologies and wireless services. It has no regulatory authority over internet services or cable modem service; however, there is a pending court decision that may impact the Commission's authority with respect to cable modem service. The Commission regulates network access, which is a component of Digital Subscriber Line (DSL) service. If the Commission were to decide to motivate technology change or deployment, the Commission would have to choose DSL service as the preferred technology because of its lacking jurisdiction over most competing technologies. The SB 1712 Report concluded that the Commission has the authority to require local exchange companies to include broadband access as a component of basic service. (SB 1712 Report, p. 19). Many parties who filed comments on related topics in this proceeding suggest the Commission should remain neutral with respect to the technology used for broadband deployment. They cite policy reasons and jurisdictional concerns.

2. Whether and how existing programs promote the availability and use of advanced telecommunications technology for inner-city, low-income and disabled Californians; and the adequacy of current efforts to provide educational institutions, health care institutions, community-based organizations, and governmental institutions with access to advanced telecommunications services.

The SB 1712 Report described the kinds of programs that serve low income and disabled customers, schools, and other government and community organizations. The report recommended that consideration of broadband access issues for the Deaf and Disabled be performed in a proceeding specific to changes to the Deaf and Disabled Telecommunications Program. The Commission has not yet formally addressed these recommendations. The SB 1712 report also recommended expanding the California Teleconnect Fund (CTF) program to include more customers and increase the subsidy. (SB 1712 Report, p. 22). The Commission resolved this issue in Resolution T-16742 (signed May 8, 2003), expanding the CTF discount to qualified health care institutions and community-based organizations for all eligible services. The resolution also expanded the types of eligible entities and clarified that the 50% discount applies to DSL service.

3. Whether existing law and policy encourage fair treatment of consumers through provision of sufficient information for making informed choices, establishment of reasonable service quality standards, and establishment of processes for equitable

resolution of billing and service problems.

The Commission is addressing these types of issues in two other proceedings. In R.00-02-004, the Commission has proposed a “Telecommunications Consumer Bill of Rights” to promote customer understanding and reduce the opportunity for fraud. In R.02-12-004, the Commission is considering telecommunications company service quality and such issues as wait time, repair intervals, and operational standards.

Topics That May Require Initial Investigation

The Commission has not addressed these issues in the SB 1712 report or other Commission proceedings in the recent past:

1. Existing Barriers to the ubiquitous availability and use of advanced telecommunications technology.

The parties explain that advanced technologies are not used by all California customers for several reasons, many of which are interrelated:

Lack of demand;

Regulatory uncertainty and Commission rules that discourage infrastructure investment;

High cost of installing broadband infrastructure, especially in rural areas;

Lack of investment funding for telecommunications companies;

Lack of leadership and a cohesive broadband initiative;

High price of broadband services;

Cost of customer equipment, such as computers and modems;

Cultural, religious and educational biases to using the Internet.

2. Whether new telecommunications technologies or the cost of existing technologies have changed in ways that would make them more economical to deploy statewide; and whether and how telecommunications technologies and their costs are expected to change in the future in ways that would make them more economical to deploy statewide.

Several parties suggested creating a “Blue Ribbon Task Force” to assess availability and cost of broadband, and to develop policies to encourage deployment. The inference is that the state may have an active role in promoting advanced technologies.

3. Whether and how open and competitive markets for advanced communications technologies can encourage greater efficiency, low prices and more consumer choice.

Many parties comment that the Commission should rely on competitive markets as the best way to assure appropriate levels of investment in and deployment of broadband facilities. The inference is that the state does not need to intervene in markets in order to assure appropriate, if not ubiquitous, availability of advanced technologies.

4. Whether and how identified technologies may promote economic growth, job creation and social benefits.

Some parties suggest advanced telecommunications technologies can promote certain benefits, including higher-paying jobs, access to culture, services, education and employment. Some comment these technologies contribute to a healthier economy generally.

Prehearing Conference

The Commission will hold a (PHC) in this proceeding to address a number of procedural matters. We will address the scope of issues more thoroughly, including those addressed herein and whether technologies have changed in the past year and how they are expected to change; what other states are doing; the technical and economic barriers to technology deployment; and the extent to which existing programs are promoting technology deployment among those who could not otherwise afford them and in areas where telecommunications companies are not or would not otherwise provide service.

The PHC will provide an opportunity to assess the types of information the Commission will need to conduct its inquiry and consider which issues are most critical to satisfying SB 1563. We will address procedures appropriate to this inquiry, and whether they require additional comments, workshops, or hearings. The Commission will be particularly interested in ways to solicit the views of the general public and the broadest array of constituencies.

Parties who wish to remain on the service list of this proceeding must attend the PHC or contact the assigned administrative law judge before the date of the PHC by e-mail at kim@cpuc.ca.gov.

IT IS RULED that:

The Commission will hold a prehearing conference in this proceeding on September 15, 2003, at 11:00 a.m. in the Commission's hearing room, 505 Van Ness Avenue, San Francisco, California.

Dated August 28, 2003, at San Francisco, California.

/s/ KIM MALCOLM

Kim Malcolm
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Scheduling Prehearing Conference and Summarizing Issues on all parties of record in this proceeding or their attorneys of record.

Dated August 28, 2003, at San Francisco, California.

/s/ HELEN FRIEDMAN
Helen Friedman

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.